

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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Federal Communications Commission
Office of the Secretary

In the Matter of

Billed Party Preference
for 0+ InterLATA Calls

)
)
) CC Docket No. 92-77
)

ORIGINAL
FILE

COMMENTS OF
ADVANCED TECHNOLOGIES CELLULAR TELECOMMUNICATIONS, INC.

ADVANCED TECHNOLOGIES CELLULAR
TELECOMMUNICATIONS, INC.

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July 7, 1992

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**COMMENTS OF
ADVANCED TECHNOLOGIES CELLULAR TELECOMMUNICATIONS, INC.**

Advanced Technologies Cellular Telecommunications, Inc. ("ATCTI"), by its undersigned attorneys, hereby submits its comments on the Notice of Proposed Rulemaking issued in the above-captioned proceeding concerning billed party preference routing of all "0+" interLATA calls. ^{1/}

I. INTRODUCTION

1. ATCTI is a small interexchange carrier ("IXC") headquartered in Tucson, Arizona. It provides operator services to several hundred payphone and aggregator locations. While ATCTI rarely participates in FCC rulemaking proceedings, it submits formal comments in this proceeding to show the Commission the dire impact billed party preference would have on its business and on the businesses of hundreds of small entrepreneurial competitive carriers like it around the country. In reality, the practical effect of adoption of billed party

^{1/} Billed Party Preference for 0+ InterLATA Calls, 7 FCC Rcd 3027 (1992) ("Notice").

preference likely would be to put small carriers like ATCTI out of business.

**II. BILLED PARTY PREFERENCE CANNOT BE
JUSTIFIED UNDER A COST/BENEFIT ANALYSIS**

2. When billed party preference is subjected to a rigorous cost/benefit analysis -- as the FCC has promised the Administration it will perform for all major regulations ^{2/} -- it becomes clear that this system cannot be cost justified and should not be implemented. The so-called benefits of billed party preference are that the billed party can choose the carrier completing the call and that the carrier can be reached from any public telephone in the country. In ATCTI's experience, the calling party is generally also the billed party or a relative or employee of the billed party. In addition, calling parties can already reach the carriers of their choice because of "800," "950," and "10XXX" unblocking requirements. ^{3/} Therefore, the potential benefits of billed party preference are quite small -- especially in comparison to its enormous costs.

3. In 1990, Bell Atlantic estimated the cost of implementing a LIDB-based system of billed party preference would exceed \$150 million for just the Bell and General Telephone

^{2/} Report of the Federal Communications Commission Regarding the President's Regulatory Reform Program at 33 (released April 28, 1992) ("Report").

^{3/} Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, 6 FCC Rcd 4736, 4744 (1991), petitions for recon. and court appeals pending; 47 C.F.R. § 64.704(d).

companies. ^{4/} AT&T has estimated that the costs of such a system would be more than \$560 million. ^{5/} Given that even its supporters admit that billed party preference could not be implemented until 1995 or 1996 at the earliest, the costs would be even higher. ^{6/} Once the LECs have installed the system, the IXCs that have calling cards will have to reissue their cards in the card issuer identifier ("CIID") or 891 formats ^{7/} -- a step that Sprint, a support of billed party preference, estimates will cost it \$20 million. ^{8/}

4. In addition to its implementation costs, billed party preference will slow the completion of collect, third-party, and credit card calls through the need to route the calls first to a LEC live operator and then to an IXC live operator. Besides delaying and frustrating callers, the addition of a LEC "0-" transfer to complete these calls will dramatically increase rates ^{9/} while not improving service to customers. Indeed,

^{4/} See Bell Atlantic's Motion for Commission Decision submitted in RM-6723 (filed November 26, 1990) at 4 n.12.

^{5/} Notice, 7 FCC Rcd at 3031.

^{6/} 92-77, Part 1 Comments of the Nynex Telephone Companies ("Nynex") at 3 n.3; 92-77, Part 1 Comments of US West Communications, Inc. ("US West") at 5.

^{7/} 92-77, Part 1 Comments of Southwestern Bell Telephone Company at 6.

^{8/} 92-77, Part 1 Sprint Comments at 10.

^{9/} In order to avoid the issue of an unconstitutional "taking" without just compensation under the Fifth Amendment, implementation of billed party preference would also require the Commission to order that aggregators and private payphone owners
(continued...)

given billed party preference's dependence on Signaling System Seven technology, network reliability could actually worsen, rather than improve. Under this analysis, the Commission cannot adopt billed party preference without violating the Administrative Procedure Act's prohibition on arbitrary and capricious agency action.

**III. BILLED PARTY PREFERENCE COULD
 ELIMINATE MUCH OF THE COMPETITIVE "0+" MARKET**

5. Small carriers such as ATCTI have developed to provide innovative services to local and regional markets such as store and forward payphones. Such carriers cannot afford to offer service on a nationwide scale or to issue calling cards to customers -- both requirements for survival if billed party preference were implemented. Moreover, it is completely unrealistic for the Commission to expect regional carriers to expand their "0+" coverage by reach "partnership agreements" with their competitors. If the FCC is truly concerned with promoting entrepreneurship within the telecommunications industry, ^{10/} it should not implement a proposal that would make it virtually impossible for regional operator services providers to survive and would necessarily turn the operator service market into an

^{9/} (...continued)
be compensated for the use of their equipment to complete dial around calls. See, e.g., Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982) (law requiring landlord to permit installation of cable television wires constitutes a constitutionally compensable taking); Armstrong v. United States, 364 U.S. 40 (1960) (destruction of materialsman's lien is a taking requiring just compensation).

^{10/} See Report at ii-iii.

oligopoly composed of AT&T, MCI, and Sprint. This result would certainly not be in the public interest and should be prevented.

IV. CONCLUSION

6. For the above reasons, the Commission should reject the proposals to implement billed party preference.

Respectfully submitted,

ADVANCED TECHNOLOGIES CELLULAR
TELECOMMUNICATIONS, INC.

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CERTIFICATE OF SERVICE

I, Joan T. Prouty, hereby certify that a copy of the foregoing Comments of Advanced Technologies Cellular Telecommunications, Inc. has been served by hand this 7th day of July 1992 to the following:

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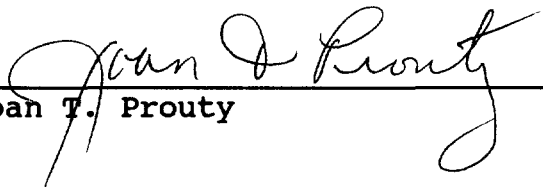
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